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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

BRIAN CHAVEZ and BRANDON
BRACAMONTE, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

COUNTY OF SANTA CLARA,

Defendant.

JAMES R. WILLIAMS, County
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DOUGLAS M. PRESS, Assistant
County Counsel (SBN 168740)
ARYN PAIGE HARRIS, Deputy
County Counsel (SBN 208590)
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Attorneys for Defendant
Santa Clara County

Case No. 1:15-cv-05277-RMI

**ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
CONSENT DECREE AND NOTICE TO
THE CLASS**

Date: November 27, 2018
Time: 10:00 AM

Magistrate Judge Robert M. Illman

1 Plaintiffs in this action, Brian Chavez, Brandon Bracamonte, and a class of all
 2 people who are now, or in the future will be, incarcerated in the Santa Clara County
 3 jails, and a subclass of all people who are now, or in the future will be, incarcerated in
 4 the Santa Clara County jails and who have a psychiatric and/or intellectual disability,
 5 as defined under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.,
 6 and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, allege that conditions in the
 7 Jails violate the Eighth and Fourteenth Amendments of the United States Constitution
 8 and the Americans with Disabilities Act. Plaintiffs claim that they are entitled to
 9 injunctive relief to address their claims.

10 The parties have entered into a Consent Decree that was filed with their Joint
 11 Motion for Preliminary Approval of Consent Decree and Notice to the Class, which
 12 would settle all claims in this case. The parties have submitted a proposed notice to the
 13 class, as well as a proposed order regarding the distribution of the notice to the plaintiff
 14 class. This Court has presided over the proceedings in the above-captioned action and
 15 has reviewed all of the pleadings, records, and papers on file. The Court has reviewed
 16 the Joint Motion for Preliminary Approval of Consent Decree and Notice to the Class
 17 along with the Consent Decree and supporting documents, and has considered the
 18 parties' arguments concerning the proposed settlement of this class action. The Court
 19 has determined that inquiry should be made regarding the fairness and adequacy of this
 20 proposed settlement.

21 Accordingly, good cause appearing, IT IS ORDERED AS FOLLOWS:

22 1. A court should preliminarily approve a class action settlement if it “appears
 23 to be the product of serious, informed, non-collusive negotiations, has no obvious
 24 deficiencies, does not improperly grant preferential treatment to class representatives or
 25 segments of the class, and falls within the range of possible approval.” *In re Tableware*
 26 *Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007) (quotation marks and
 27 citations omitted). The Court finds that this standard is met in this case, as the proposed
 28 settlement is the product of arms-length, serious, informed, and non-collusive

1 negotiations between experienced and knowledgeable counsel who have actively
2 prosecuted and defended this litigation.

3 2. The Court finds that the requirements of Rule 23(b)(2) are met because this
4 action seeks declaratory and injunctive relief against policies and practices that risk
5 harm and discriminatory treatment to the class.

6 3. The Court finds that the Consent Decree meets the requirements of 18
7 U.S.C. § 3626(a)(1). The Consent Decree attached hereto is granted preliminary
8 approval and incorporated by reference herein, subject to the right of class members to
9 challenge the fairness, reasonableness, or adequacy of the Consent Decree.

10 4. Under Federal Rule of Civil Procedure 23(e)(1), the Court approves the
11 substance, form and manner of the Notice of Proposed Class Action Settlement (the
12 “Notice”) filed by the parties, and finds that the proposed method of disseminating the
13 Notice meets all due process and other legal requirements and is the best notice
14 practicable under the circumstances.

15 5. By December 18, 2018, the County is directed to post the Notice in
16 English, Spanish, and Vietnamese in all housing units in such a manner as to make the
17 notice visible to all inmates. The County shall hand deliver a copy of the Notice to each
18 inmate in administrative management. The Notice shall be posted and delivered for
19 thirty days.

20 6. The County is also directed to provide a copy of this Order, the full
21 Consent Decree, the Remedial Plan and Plaintiffs’ motion for attorneys’ fees to inmates
22 who complete an inmate request form and request the documents. Defendant must file
23 and serve on Plaintiffs’ counsel a declaration affirming that notice was published as
24 required in this order.

25 7. A fairness hearing shall take place at 10:00 a.m. on February 27, 2019 in
26 Courtroom 14, United States Courthouse, 450 Golden Gate Avenue, San Francisco,
27 California, to determine whether the proposed settlement of this action on the terms and
28 conditions provided for in the Consent Decree is fair, reasonable, and adequate and

1 should be finally approved by the Court. The hearing may be continued from time to
 2 time without further notice to the class. Any further briefing from the parties in advance
 3 of the hearing shall be filed no later than February 13, 2018.

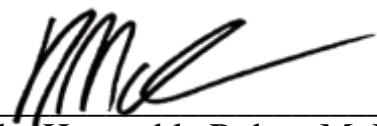
4 8. Any member of the class may enter an appearance on his or her own behalf
 5 in this action through that class member's own attorney (at their own expense), but need
 6 not do so. Class members who do not enter an appearance through their own attorneys
 7 will be represented by class counsel. Alternatively, any member of the class may write
 8 to the Court about whether the settlement is fair.

9 9. The Court will consider written communications when deciding whether to
 10 approve the settlement. Comments regarding the fairness of the settlement must include
 11 at the top of the first page the case name (*Chavez v. County of Santa Clara*) and the case
 12 number (N.D. Cal. No. 1:15-cv-05277-RMI). A written comment must contain the
 13 author's full name and must include all objections and the reasons for them, must
 14 include any and all supporting papers (including, without limitation, all briefs, written
 15 evidence, and declarations), and must be signed by the class member. A class member
 16 who desires to comment but who fails to comply with the above objection procedure
 17 and timeline shall be deemed to have not objected and the objection shall not be heard
 18 or considered at the hearing. Comments must be postmarked by January 17, 2019, and
 19 must be sent to the following address:

20 Clerk of the Court
 21 United States District Court
 22 450 Golden Gate Avenue
 23 San Francisco, CA 94102

24 **IT IS SO ORDERED.**

25 Dated: November 27, 2018

26 
 27 The Honorable Robert M. Illman
 28 United States Magistrate Judge

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